

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 327 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

J M SHARE & STOCK BROCKERS LTD

Versus

JATIN P VAIDYA ESQUIRE MEMBER

Appearance:

MR AC GANDHI for Petitioner
Party in person appeared for Respondent No. 1 & 2
RULE NOT RECD BACK for Respondent No. 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 25/02/2000

ORAL JUDGEMENT

The petitioner has challenged the order dated 29.12.1999 made by the Member of the State Commission by which interim stay which was granted against the operation of the order made by the District Forum and

which was expiring on 29.12.1999 was extended by the learned Member on the condition that the petitioner should deposit the entire amount due under the order of the District Forum within one month.

The grievance of the petitioner is that no such condition should have been imposed by a Member of the State Commission. It was argued that a Member alone cannot make any such order and the quorum of the Commission was the President with one Member. It was submitted that the term of the President was to expire on 31.12.1999. On 29.12.1999 the President was not available and therefore the Member had made the order. If the Member did not have authority to impose any condition while extending the interim relief, he would also have no authority to extend interim relief in favour the the petitioner. It is stated that even till now the President is not appointed to head the State Commission.

Admittedly, the petitioner has not complied with the condition for grant of extension of interim relief and therefore as on today the order does not survive. The learned counsel for the petitioner submits that the petitioner therefore seeks permission to withdraw this petition at this stage with a view to file a substantive petition for getting an appropriate relief from this court in view of the fact that alternative and efficacious remedy is not available due to there being no President of the Commission. Permission to withdraw this petition with a view to file a substantive petition is granted. Rule is discharged with no order as to costs. Ad-interim relief stands vacated.

(R.K. ABICHANDANI, J)

(pkn)